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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,984	01/08/2004	Michael Bryan Kelly		1965

7590
Michael Bryan Kelly
215 Woodland Ct
Safety Harbor, FL 34695

01/18/2007

EXAMINER

BELANI, KISHIN G

ART UNIT	PAPER NUMBER
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2112

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/667,984

Applicant(s)

KELLY, MICHAEL BRYAN

Examiner

Kishin G. Belani

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2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 01/08/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/08/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Preliminary Amendment

The present Office Action is based upon the original patent application filed on 09/23/2003 as modified by the preliminary amendment filed on 01/08/2004. Claims 1-4 are now pending in the present application.

Claim Objections

Claims 1 is objected to because of the following informalities:

In the preamble of claim 1, delete "means and" after the words "comprised of".

In process e) of claim 1, delete "and means" after the words "more processes", and change "client" to -- clients --.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear from the **claims 1 e) and 4**, how by providing processes to spammers to discover the email addresses of clients, the company will reduce the amount of spam being sent to clients as stated in claim 1 preamble.

Claims 2 and 3 are also rejected by virtue of their dependency on claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lindeman et al. (U.S. Patent Application Publication # 2003/0009698 A1)** in view of **Breck (U.S. Patent Application Publication # 2003/0131063 A1)**, and further in view of **Paul (U.S. Patent Publication # 6,052,709)**.

Consider **claim 1**, Lindeman et al. clearly show and disclose a process to reduce the amount of spam being sent to clients (Abstract; Fig. 7 (not marked but mentioned in paragraph 0021), blocks 724 and 726; paragraph 0061, that describes the process of separating spam email from trusted email), said process being comprised of processes for a company (In Fig. 6, Lindeman et al. show a web site www.spamavenger.com of a company formed by Lindeman to reduce spam) to, provide one or more processes and means for said spammers to discover the email addresses of client (Fig. 5; paragraph 0083, lines 15-25; paragraph 0084, lines 03-15, that disclose a confirmation message being sent to an unapproved sender whenever a client receives a potential spam email, providing an option for the sender to discover the recent list of clients receiving spam email).

However, Lindeman et al. do not specifically disclose how to create and populate one or more databases of clients, create and populate one or more databases of spammers, and provide one or more processes for said clients to notify said company of spam events.

In the same field of endeavor, Breck clearly shows and discloses how to create and populate one or more databases of clients (Fig. 6 that shows users providing login information including account or email address and password; paragraph 0054, lines 01-07 that disclose System 12 with a database of login names and passwords), create and populate one or more databases of spammers (Fig. 3, blocks 43, 45, and 47 listing blocked senders, blocked domains, and blocked networks; paragraph 0056, lines 11-13 that disclose lists of "blocked" (interpreted to be spammers) being maintained),

and provide one or more processes for said clients to notify said company of spam events (Fig. 4 that shows "Detained" messages (interpreted to be spam email messages) being presented to a client along with options in the form of radio buttons that the client can click to decide what to do with the spam messages. The client is thereby able to notify the company of the spam messages received).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to maintain a database of the company's clients and a database of known spammers, and a process for the clients to notify the company whenever the clients received spam emails, so that the company's client and spammer databases can be updated, as taught by Breck; and provide a process for the spammers to have access to the list of new clients added to the company's client database, so as to let spammers remove those clients from their distribution lists, as taught by Lindeman; thereby enabling the company to prevent distribution of unwanted email to the company's clients.

However, Lindeman et al. as modified by Breck, fails to disclose how to provide one or more processes for said company to notify clients of said spam events.

In the same field of endeavor, Paul clearly shows and discloses how to provide one or more processes for said company to notify clients of said spam events (Column 01, line 67, column 02, lines 01-10, that describe how an alert signal is generated and transmitted to network servers and user terminals when an email is determined to be spam).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to alert clients of any new spam events, as taught by Paul, in the method of Lindeman et al. as modified by Breck, so that the clients may take any preventive measures to block spam messages.

Consider **claim 2**, and **as applied to claim 1 above**, Lindeman et al. as modified by Breck and Paul, disclose a process of forming a company (Fig. 6, that shows a web site www.spamavenger.com of a company formed by Lindeman with the earliest operational date of December 11, 2003 (as shown on the Wayback machine web site www.archive.org)).

Consider **claim 3**, and **as applied to claim 1 above**, Lindeman et al. as modified by Breck and Paul, disclose a process of creating a web site (Fig. 6, that shows a web site www.spamavenger.com of a company formed by Lindeman with the earliest operational date of December 11, 2003 (as shown on the Wayback machine web site www.archive.org)).

Consider **claim 4**, and **as applied to claim 1 above**, Lindeman et al. as modified by Breck and Paul, disclose a process for spammers to acquire a list of company's clients that recently received spam email (Fig. 5; paragraph 0083, lines 03-15, that disclose a confirmation message being sent to an unapproved sender, whenever a new client

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receives a potential spam email, providing an option for the sender to acquire a list of clients receiving spam email).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent: 6,453,327 B1, inventor: Nielsen, issued: 09/17/2002

US Patent: 7,127,680 B2, inventor: Pang, issued 10/24/2006

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Art Unit: 2112

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kishin G. Belani whose telephone number is (571) 270-1768. The Examiner can normally be reached on Monday-Thursday from 6:30 am to 5:00 pm.

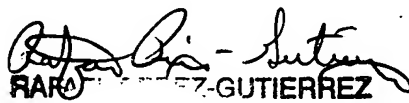
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Perez Gutierrez can be reached on (571) 270-1767 or (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Kishin G. Belani
K.G.B./kgb

December 18, 2006


RAFAEL PEREZ-GUTIERREZ
SUPERVISOR
12/27/06